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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

January 26, 1998

Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

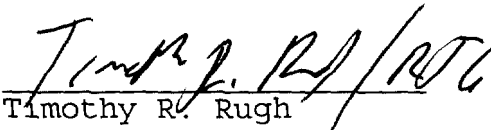
Re: Report to Congress on
Universal Service Under the
Telecommunications Act of 1996
CC Docket No. 96-45

Dear Ms. Salas:

On behalf of The United States Internet Providers Association ("USIPA"), enclosed is one (1) original plus four (4) copies of the Comments of USIPA filed in response to the Commission's Public Notice (DA 98-2, released January 5, 1998) in the above-referenced proceeding. In addition, attached is a 3.5" floppy disk containing the filing in WordPerfect for Windows version 5.1 format.

If there are any questions with respect to this filing, please contact the undersigned.

Respectfully submitted,


Timothy R. Rugh

The United States Internet
Providers Association

Enclosures

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DOCKET FILE **APPROVED**

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

JAN 28 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Report to Congress on) CC Docket No. 96-45
Universal Service Under the)
Telecommunications Act of 1996)

To: The Commission

**COMMENTS OF THE UNITED STATES INTERNET PROVIDERS
ASSOCIATION**

The United States Internet Providers Association ("USIPA"), pursuant to the Commission's Public Notice of January 5, 1998, DA 98-2, respectfully submits the following comments addressing the Commission's Universal Service program implementation reporting requirements to Congress.

USIPA represents the interests of the Internet service provider ("ISP") industry, consisting of over 4,500 competitive ISPs in the United States. USIPA's membership is open to all ISPs, including both national Internet backbone providers ("IBPs"), and national, regional and local ISPs who provide Internet interconnectivity and access services. USIPA seeks to facilitate deployment of advanced Internet services to all segments of the public through the advocacy and development of policies that will provide for the fair representation of the ISP industry within the overall telecommunications landscape.

USIPA urges the Commission to maintain its existing universal service rules with respect to information service providers, and specifically Internet Service Providers ("ISPs"). The Commission's policy has been to permit the new competitive ISP industry to evolve without artificial regulatory controls. The quick evolution of the extremely competitive ISP industry is an excellent example of the positive effects of Congressional policy under the Telecommunications Act and the Commission's implementation of that policy favoring a competitive environment with respect to the development of the Internet. The Commission first demonstrated this intent in creating the enhanced service provider ("ESP") exemption from interstate access charges, which has been recently reiterated.¹ This liberal policy has also been demonstrated by the Commission with respect to its implementation of the Universal Service provisions of the Telecommunications Act of 1996. In the Report and Order in this proceeding, the Commission has made clear that schools and libraries may seek discounts for Internet services, and that the ISPs providing these services are permitted to seek reimbursement from the federal Universal Service Fund for their provision.²

¹ See *In re Usage of the Public Switched Network by Information Service and Internet Access Providers*, Notice of Inquiry, CC Docket No. 96-263, FCC 96-488, released December 24, 1996.

² See *In re Federal-State Joint Board on Universal Service*, Report and Order, CC Docket No. 96-45, FCC 97-157, released May 8, 1997, at para. 425.

In reporting to Congress on implementation of Universal Service, the Commission must ensure that it precisely confirms its "hands off" policy with respect to unregulated Internet services. Congress must be made aware that a substantial reason for the explosive growth of this new industry is because the government has not involved itself in the regulation of information service providers or Internet services.

In clearly carrying out the definition of information services in the Telecommunications Act of 1996, Congress recognized the need for separate regulatory treatment for information service providers, including ISPs. If Congress had not intended to treat information service providers differently, it would have simply included information services under the definition of telecommunications service

The Commission's application of Internet services for purposes of school and library eligibility for discounts under the Universal Service fund program has been correct. Congress clearly intended that a significant portion of the overall "advance" services which would be made available for schools and libraries under Universal Service would be Internet services. In fact, as one of its Universal Service principles, Congress clearly asserted that "[a]ccess to advanced telecommunications services and information services should be provided in all regions of the Nation." See 47 U.S.C. Section 254(b).

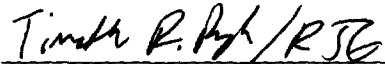
The Commission has also been correct in its decision to directly exempt ISPs from making contributions into the USF. ISPs are not telecommunications common carriers under the Communications Act or any Commission definitions. ISPs are end users paying tariffed prices for intrastate telecommunications services they purchase for their provision of Internet services. Because ISPs are end users, they indirectly contribute into the Universal Service Fund with a portion of each recurring monthly payment they make to the local exchange carrier (who simply passes its USF contribution obligations through to its customers) for the tariffed end-user services they purchase.

USIPA also believes the Commission's interpretation of Section 254 in the Report and Order was correct with respect to permitting Internet service providers to participate in the USF program. ISPs have played the most significant role in the overall development of the Internet industry. It would be completely illogical that Congress did not intend that the exact entities which constructed the Internet would not be permitted to participate in a program which is designed to bring the Internet to our nation's schools and libraries. Without the participation of ISPs, the program may never become the success which Congress and the Commission envision.

Conclusion

USIPA therefore respectfully requests that the Commission carefully consider the foregoing comments in its review of its reporting requirements to Congress with respect to the implementation of Universal Service under the Telecommunications Act of 1996.

Respectfully submitted,


Timothy R. Rugh,
Executive Director

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